

BRB No. 04-826 BLA
Case No. 03-BLA-05322

CHARLES B. SLONE) DATE ISSUED: August 19, 2004
)
Claimant-Petitioner))

v.)
)
VIRES COAL SALES,)
INCORPORATED)
Employer-Respondent)
)
DIRECTOR, OFFICE OF WORKERS')
COMPENSATION PROGRAMS,)
UNITED STATES DEPARTMENT)
OF LABOR)
)
Party-in-Interest) ORDER

Claimant, on his own behalf, filed a Notice of Appeal dated July 27, 2004, of the administrative law judge's Decision and Order dated June 14, 2004, and filed in the Office of the District Director on June 15, 2004. In support, claimant also attached a copy of a medical report dated June 4, 2004. Claimant's appeal is assigned the Board's docket number, BRB No. 04-826 BLA.

Section 802.205 of the Rules of Practice and Procedure of the Benefits Review Board provide that a Notice of Appeal must be filed within thirty (30) days from the date the decision or order is filed in the Office of the District Director. 20 C.F.R. §802.205. Failure to file an appeal within the period specified shall foreclose all rights to review by the Board. 20 C.F.R. §§802.205, 802.220. In the instant case, the last day of the designated filing period ended on July 15, 2004. Therefore, claimant's appeal, dated July 27, 2004, should have been filed on or before July 15, 2004.

Accordingly, claimant's appeal is dismissed as untimely filed. 33 U.S.C. §921(a); 20 C.F.R. §802.205.

In light of the above action, claimant's medical report dated June 4, 2004, is being returned with this Order. ¹ 20 C.F.R. §802.216.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge

¹ Claimant is advised that if he has new evidence that establishes a change in condition or mistake of fact in the administrative law judge's decision, he may apply for modification directly with the district director. 33 U.S.C. §922; 20 C.F.R. §725.310.